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SERVICE DATE – MARCH 22, 2018

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36166]

Indiana Southern Railroad, LLC—Amendment to Trackage Rights Exemption—The  
Indiana Rail Road Company

Indiana Southern Railroad, LLC (ISRR), a Class III railroad, has filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(7) for overhead trackage rights over a line of railroad owned by The Indiana Rail Road Company (INRD), pursuant to an amendment (Amendment) to an existing trackage rights agreement (Base Agreement) between ISRR and INRD. The trackage rights relate to approximately 5.8 miles of rail line between INRD milepost 224.1 at or near Elnora, Ind., and INRD milepost 218.3 at or near Beehunter, Ind. (the Line).<sup>1</sup>

ISRR states that the Amendment grants ISRR the right to construct one or more additional connections at the Beehunter end of the Line, to reinstall a crossing diamond there, and to extend the term of the Base Agreement by 22 years to August 12, 2065.

ISRR, in return, agreed to contribute toward INRD's obligations under a federal Transportation Investment Generating Economic Recovery (TIGER) grant to be used to

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<sup>1</sup> ISRR currently holds overhead trackage rights over the Line under the Base Agreement. Ind. S. R.R.—Trackage Rights Exemption—Soo Line R.R., FD 32538 (ICC served Oct. 13, 1993). ISRR states that it is the successor to Indiana Southern Railroad, Inc., and INRD is the successor in interest to Soo Line Railroad Company. (Notice 1 n.1.)

improve the Line.<sup>2</sup> According to ISRR, the Amendment does not make any material change to the trackage rights (which remain overhead with the same end points).

A redacted public version of the Amendment is attached to ISRR's verified notice of exemption.<sup>3</sup>

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions set forth in Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc., 354 I.C.C. 605 (1978), as modified in Mendocino Coast Railway—Lease & Operate—California Western Railroad, 360 I.C.C. 653 (1980).

The transaction may be consummated on or after April 5, 2018, the effective date of the exemption (30 days after the verified notice was filed).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than March 29, 2018 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36166, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Eric M. Hocky,

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<sup>2</sup> According to ISRR, the Amendment, which was executed in May 2013, was contingent on INRD being awarded a TIGER grant and ISRR contributing toward INRD's costs after the project's completion. ISRR states that the grant was awarded in 2014 and that it made the required payment to INRD on August 12, 2015. (Notice 2 n.2.)

<sup>3</sup> With its verified notice, ISRR filed a motion for a protective order to protect the confidential and commercial sensitive information contained in the agreement, which ISRR submitted under seal. That motion will be addressed in a separate decision.

Clark Hill, PLC, One Commerce Square, 2005 Market Street, Suite 1000, Philadelphia,  
PA 19103-7031.

Board decisions and notices are available on our website at [WWW.STB.GOV](http://WWW.STB.GOV).

Decided: March 19, 2018.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.